

Message Text

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ACTION EB-07

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FM USDEL MTN GENEVA

TO SECSTATE WASHDC 1106

INFO AMEMBASSY OTTAWA

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TAGS: ETRD, MTN

SUBJECT: SECTORS: U.S.-CANADA BILATERAL DISCUSSIONS ON
CANADIAN COPPER PROPOSAL

REF: MTN GENEVA 0270, STATE 19369

1. SUMMARY. U.S. AND CANADIAN DELS MET FEB 3 TO
DISCUSS CANADIAN PROPOSAL "ELEMENTS OF AN
AGREEMENT IN THE COPPER SECTOR." THERE SEEMED TO BE
SOME RELAXATION OF CANADIAN ATTITUDE ON SECTORS IN
GENERAL AND THIS PROPOSAL IN PARTICULAR BUT THIS REMAINS
TO BE CONFIRMED. CANADIAN PRESENTATION SEEMED LESS
INTENSIVE THAN HERETOFORE AND MORE WILLING TO
RECOGNIZE INCONSISTENCIES AND PROBLEMS. CANADIANS CON-
TINUE STRESS THAT PROPOSAL BE VIEWED AS PROTOTYPE FOR
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OTHER RESOURCE BASED SECTORS AND THAT PROGRESS ON

SECTORS SHOULD MOVE PARALLEL WITH PROGRESS IN THE TARIFF NEGOTIATIONS. CANADIAN RESPONSE TO QUESTIONS POSED BY U.S. (AS PER REFTEL) CLARIFIED SOME ASPECTS OF CANADIAN PROPOSAL BUT ALSO INDICATED CANADIAN FLEXIBILITY, DOUBTS, AND PERHAPS DOMESTIC PROBLEMS ON INDIVIDUAL PARTS OF THE PROPOSAL. CANADIANS CONTINUED TO TIE THEIR RESPONSE ON TARIFF FORMULAE TO SUBSTANTIVE REACTIONS FROM OTHER DELS TO THEIR PROPOSAL ON SECTORS. THEY REQUESTED ANOTHER BILATERAL DISCUSSION PRIOR TO THE NEXT MEETING OF THE SECTOR GROUP IN APRIL. END SUMMARY.

2. U.S. DELEGATION (LED BY MCNAMARA) MET WITH CANADIANS AT THEIR REQUEST TO DISCUSS CANADIAN PROPOSAL OUTLINING THE ELEMENTS THAT A SECTOR AGREEMENT SHOULD CONTAIN. WE INDICATED AS PER REFTEL THAT OUR PRELIMINARY EXAMINATION OF THE PROPOSAL HAD RAISED NUMEROUS QUESTIONS WE WOULD LIKE ANSWERED BY THAT WE WERE NOT YET READY TO INDICATE A USG RESPONSE TO THE CANADIAN PROPOSAL. AMB GREY AND MEL CLARK SPOKE FOR THE CANADIANS.

3. CANADA DOES NOT EXPECT SECTORAL NEGOTIATIONS TO BE GRANTED PRIORITY BUT EXPECTS THEM TO MOVE PARALLEL WITH PROGRESS IN TARIFFS GROUP. IT WOULD BE DIFFICULT, HE ADDED, FOR THE CANADIANS TO AGREE TO A TARIFF FORMULA WITHOUT EQUIVALENT PROGRESS ON SECTORS OF INTEREST TO CANADA. THROUGHOUT DISCUSSION, GREY AND CLARK REPEATED THAT THE CANADIANS SEEK TO SECURE ACCESS TO FOREIGN MARKETS FOR SEMIPROCESSED AND FINISHED COPPER (AND OTHER RESOURCE-BASED) PRODUCTS, IN ORDER TO ENCOURAGE INVESTMENT IN CANADA IN EXPLORATION AND R&D NEEDED TO ATTAIN ECONOMIES OF SCALE. ACCESS TO THESE MARKETS (ESPECIALLY JAPAN, BUT ALSO THE U.S. AND EC) IS RESTRICTED PRIMARILY BY TARIFF ESCALATION BUT ALSO BY NTBS SUCH AS GOVERNMENT PROCUREMENT PRACTICES. MANY CANADIAN TRADE DISTORTING MEASURES (SUBSIDIES, EXPORT CONTROLS, ETC.) RESULT, GREY CLAIMS, FROM AN ATTEMPT TO OVERCOME TRADE DISTORTIONS CAUSED BY IMPORT RESTRICTIONS IN CANADA'S MAJOR MARKETS. THE PROPER WAY TO DEAL WITH THESE TRADE RESTRAINTS, LIMITED OFFICIAL USE

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ACCORDING TO GREY, IS THROUGH SECTORAL AGREEMENTS.

4. TARIFF ASPECT OF SECTOR AGREEMENT. UNDER THE CANADIAN PROPOSAL, THE U.S. WOULD REDUCE TARIFFS ON COPPER PRODUCTS BY THE FULL EXTENT ALLOWED IN THE TRADE ACT AND OTHER COUNTRIES WOULD HARMONIZE THEIR RATES ON THE U.S. RATES. ALTHOUGH THERE MIGHT NEED TO BE DIFFERENT STAGING REQUIREMENTS FOR PARTICIPATING COUNTRIES

(THE CANADIANS HAVE SOME COPPER TARIFFS OF 17 PERCENT)
ALL TARIFFS WOULD BE HARMONIZED WHEN THE FINAL CUTS
BECAME EFFECTIVE.

5. DEFINITION OF PRODUCT SECTOR. THE CANADIANS BASE
THEIR DEFINITION OF THE COPPER SECTOR ON
CONSUMPTION IN THE MAJOR OECD MARKETS. ITEMS
WHICH MIGHT BE CLEARLY IDENTIFIED AS FINISHED COPPER
PRODUCTS (I.E., COPPER KITCHENWARE) BUT ARE LESS SIGNI-
FICANT IN TOTAL CONSUMPTION WERE NOT INCLUDED. AS
THE PROPOSAL POINTS OUT, HOWEVER, THE DEFINITIONAL
QUESTION IS ONE FOR NEGOTIATION AND THE CANADIANS DO
NOT APPEAR TO HAVE A FIXED LIST OF COPPER ITEMS SO
LONG AS MOST OF THE BIG TRADE (OR CONSUMPTION)
ITEMS ARE INCLUDED.

6. FEDERAL/PROVINCIAL CONFLICT. CANADIANS DIDI NOT
PRESENT COHERENT EXPLANATION OF HOW THEY PLANNED
SURMOUNT THIS WELL-KNOWN PROBLEM. THIS WAS CRUCIAL
WEAKNESS OF THEIR PRESENTATION. THEY TRIED TO PLAY
DOWN POTENTIAL PROBLEMS IN THIS AREA BY SAYING THAT
THEIR PROBLEMS ARE NOT MUCH DIFFERENT THAN THOSE OF THE
USG WITH 50 STATES. GREY ADMITTED# HOWEVER, THAT SOME
FORM OF JOINT PROVINCIAL/FEDERAL CONSENT WOULD BE
REQUIRED TO ASSURE EFFECTIVENESS OF A SECTOR AGREEMENT.
FEDERAL/PROVINCIAL AGREEMENT NEED NOT INCLUDE ALL PROVINCES,
HOWEVER, BUT ONLY THOSE DIRECTLY INVOLVED WITH THE
SECTOR IN QUESTION.

7. SECURITY OF SUPPLY. CANADIANS APPEARED TO RETREAT
FROM THEIR EARLIER INDICATION ON MARGIN OF LAST
SECTORS GROUP MEETING THAT SUPPLY ASSURANCES WOULD NOT
APPLY TO RAW MATERIALS BUT ONLY TO SEMIFINISHED AND
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FINISHED PRODUCTS. GREY SAID THAT SUPPLY ASSURANCES
COULD APPLY TO ALL OF THE COPPER PRODUCTS LISTED IN
THE ORIGINAL CANADIAN LIST, WHICH INCLUDE RAW MATERIALS,
BUT THAT SPECIFIC COMMITMENTS ON SUPPLY DEPTENDED ON
REQUESTS BY OTHER COUNTRIES. THE CANADIANS INCLUDED
SECURITY OF SUPPLY IN THEIR PROPOSAL BECAUSE
THEY KNOW IT IS OF INTEREST TO CONSUMING NATIONS

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(I.E., THEY SEE IT AS A BARGAINING CHIP) BUT THEY EXPECT NATIONS SUCH AS JAPAN TO SPELL OUT WHAT IT IS THEY WANT IN THIS AREA. WHETHER THERE WOULD BE COMMITMENTS AND PROCEDURES AS TIGHT ON THE EXPORT SIDE AS CANADIANS PROPOSING ON IMPORT SIDE, WAS FOR "BIG 3" TO CLARIFY SINCE THEY HAD RAISED THE ISSUE. CLARK INDICATED THERE IS A GENERAL FEELING IN CANADA THAT THEY SHOULD UNDERTAKE NO COMMITMENT ON SUPPLY, WHILE GREY ADDED THAT ANY SUPPLY ASSURANCES WOULD NEED TO ALLOW FOR NATIONS TO TAKE ACTIONS TO PROTECT NON-RENEWABLE RESOURCES, ESPECIALLY IN THE FACE OF AGGRESSIVE BUYING PRACTICES SUCH AS THOSE UNDERTAKEN IN THE PAST BY THE JAPANESE.

8. RECIPROCITY. IT APPEARS THAT THE CANADIANS VIEW SECTORAL AGREEMENTS (AT LEAST IN THE AREAS OF INTEREST TO THEM), TO BE SELF BALANCING -- I.E., A REDUCTION OF TARIFF ESCALATION IN-THEIR MAJOR MARKETS WOULD BE BALANCED BY CANADIAN UNDERTAKINGS ON SUPPLY ASSURANCES AND TRADE DISTORTING NTBS SUCH AS

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SUBSIDIES. WHEN WE POINTED OUT THAT A SECTORAL AGREEMENT OF INTEREST TO CANADA MIGHT NOT RESULT IN

RECIPROCITY FOR ALL PARTICIPANTS, THE CANADIANS
RETREATED TO SPEAKING IN TERMS OF OVERALL RECIPROCITY
IN THE MTN. IN RESPONSE TO QUESTION OF WHAT BENEFITS
THE U.S. MIGHT OBTAIN FROM A COPPER AGREEMENT, GREY
RESPONDED THAT A SECTORAL AGREEMENT IN COPPER -- OR
IN OTHER SECTORS OF INTEREST TO CANADA -- SHOULD NOT
BE VIEWED IN ISOLATION BUT RATHER IN TERMS OF OVERALL
U.S. ECONOMIC INTERESTS. IS IT IN THE U.S. INTEREST,
HE ASKED, TO MAINTAIN FRAGMENTED, SMALL SCALE INDUSTRIES
IN CANADA OR IS IT THE U.S. INTEREST TO FACILITATE
THE GROWTH OF THESE INDUSTRIES -- AND LARGER OUTPUT
OF RAW MATERIALS TO FEED THAT GROWTH -- BY IMPROVING
ACCESS TO WORLD MARKETS. SECTORAL AGREEMENTS OF THE
NATURE OUTLINED BY CANADA, HE BELIEVES, ARE AN
INTELLIGENT WAY TO FACE LONG TERM SUPPLY ISSUES. HE
DREW PARALLEL BETWEEN COPPER PROPOSAL AND DELAYS IN
CANADIAN OIL EXPLORATION OCCASIONED, HE CHARGED, BY
U.S. PETROLEUM IMPORT QUOTAS.

9. INVESTMENT POLICY. GREY ADMITTED THAT THE
CANADIAN PROPOSAL IS SILENT ON INVESTMENT
POLICIES AND STATED THAT THIS IS BECAUSE THE PAPER
WAS WRITTEN AT A TIME WHEN THE CANADIAN GOVERNMENT
IS DEVELOPING AN APPARATUS TO DEAL WITH PROBLEMS
OF INVESTMENT IN CANADA AND BECAUSE THE QUESTION
IS TIED UP WITH THE GENERAL PROBLEM OF MNCs. IT
IS OBVIOUS THAT CANADIAN DEL'S THINKING ON THIS
QUESTION IS MYOPIC AND DOMINATED BY U.S. INVESTMENT
IN CANADA. WHEN WE ATTEMPTED TO POINT OUT THAT
ISSUE IS OF BROADER CONSEQUENCE, GREY SAID THAT
IN CASES WHERE INVESTMENT POLICIES IMPAIR A TRADE
CONCESSION, THAT THERE IS RECOURSE TO THE NULLIFICATION
AND IMPAIRMENT PROVISIONS OF THE GATT. GREY LEFT
OPEN THE POSSIBILITY OF ADDING
LANGUAGE ON INVESTMENT AT "THE END OF THE DAY"
OR RELYING ON IMPAIRMENT PROVISIONS IN THE GATT.

10. COPPER GROUP AND PANEL FOR DISPUTE SETTLEMENTS.
CANADIANS VIEW THEIR PROPOSAL FOR DISPUTE SETTLE-
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MENT AS TWO-EIERED. THE FIRST LEVEL CONSISTS OF THE
COPPER GROUP, A PERMANENT BODY CHARGED WITH OVERALL
ADMINISTRATION OF THE SECTOR AGREEMENT. THE COPPER
PANEL (AND PANELS FOR OTHER SECTOR GROUPS) WOULD BE
DESIGNED ON THE BASIS OF GATT PANELS, THAT IS, MADE
UP OF INDEPENDENT EXPERTS (GREY STRESSED HOWEVER
THAT GOVERNMENT OFFICIALS SHOULD BE EXCLUDED ENTIRELY,
ALTHOUGH RETIREES WOULD BE WELCOME). PANELS WOULD BE
FORMED ON AD HOC BASIS FROM A ROSTER OF 25 OR

MORE INDIVIDUALS WITH EXTENSIVE TRADE EXPERIENCE.
ALL DISPUTES NEEDING ADJUDICATION, WHETHER
ARISING FROM SECTORAL AGREEMENTS OR UNDER
NTB CODES COULD BE HANDLED IN A SIMILAR MANNER.
CANADIANS CONFIRMED OUR SPECULATION THAT
THEIR PROPOSAL IN THE STANDARDS GROUP COULD BE TAKEN
AS ELABORATION OF THEIR IDEAS ON A DISPUTE
SETTLEMENT MECHANISM. SKETCHED OUT IN SECTORS PROPOSAL;
THEY WERE CONSIDERING SAME FOR GOVERNMENT
PROCUREMENT. (THEY UNABLE TO RECONCILE SOME
INCONSISTENCIES SUCH AS PERMANENT PANEL PROPOSED
FOR STANDARDS AND AD HOC PANEL APPROACH DESCRIBED
ABOVE.) WHEN WE QUESTIONED TRACE RECORD OF GATT
PANELS, CLARK STATED THAT THEIR REVIEW OF GATT HISTORY
INDICATED THAT FOR FIRST 10 YEARS GATT WORKING PARTIES
ENDED IN HUNG JURIES BUT THAT FOR LAST 10-15 YEARS
GATT PANELS OF EXPERTS HAVE WORKED WELL. ONLY IN
EGG CASE DID U.S. REVIVE THE WORKING PARTY FOR DISPUTE
SETTLEMENT. WE POINTED OUT LATTER CASE WAS TO GET
QUICK ADVISORY OPINION AND WAS NOT ARTICLE XXIII
DISPUTE SETTLEMENT PROCEDURE. (COMMENT: IN FACT,
RECORD SHOWS THAT WORKING PARTY APPROACH USED IN ONLY
ONE OR TWO ARTICLE XXIII CASES, AND WAS ONLY APPROACH
EVER TO LEAD TO A CONCLUSIVE CPS AUTHORIZATION OF
SANCTIONS. VAST MAJORITY WERE PANELS AND
OUTCOMES WERE FREQUENTLY NOT OF MUCH USE.)

11. COPPER COMMODITY AGREEMENT. CANADIANS DO NOT
ANTICIPATE THAT NEGOTIATIONS IN THIS SECTOR WOULD
LEAD TO A COMMODITY AGREEMENT, ALTHOUGH THEY RECOGNIZE
THAT SECURITY OF SUPPLY ASPECTS OF SECTOR AGREEMENT
ARE RELEVANT TO ANY COMMODITY AGREEMENT. THEY REPEATED
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VIEWS CONTAINED IN LAST PARAGRAPH, PAGE 3 OF MTN/SEC/W/7
ON RELATIONSHIP BETWEEN THE TWO.

12. THE CANADIANS REQUESTED ANOTHER MEETING PRIOR
TO THE NEXT SECTORS GROUP MEETING IN APRIL. THEY HAVE
MET WITH THE EC AND WILL MEET WITH THE JAPANESE,
LDCS AND MEMBER STATES OF THE EC LATER THIS WEEK. WALKER

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